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COVER MESSAGE:

**RE: Application No. 10/053,402; Art Unit 2451
Application No. 11/506,383; Art Unit 2451**

Attached are draft responses for each application for discussion purposes for use at the telephonic interview set for **June 9, 2009 at 2:30 pm EDT** (11:30 am PDT).

Thank you for your courtesy in this matter.

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DOCKET NO.: **SI-0004
Application No.: 10/053,402
Office Action Dated: April 21, 2009

PATENT

DRAFT – FOR DISCUSSION PURPOSES ONLY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jeffrey G. Anderson, et al.

Confirmation No.: 1590

Application No.: 10/053,402

Group Art Unit: 2451

Filing Date: January 17, 2002

Examiner: Karen C. Tang

For: **LOCAL AGENT FOR REMOTE FILE ACCESS SYSTEM**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY PURSUANT TO 37 CFR § 1.111

In response to the Official Action dated **April 21, 2009**, reconsideration is respectfully requested in view of the amendments and/or remarks as indicated below:

- Amendments to the Specification** begin on page _____ of this paper.
- Amendments to the Claims** are reflected in the listing of the claims which begins on page 2 of this paper.
- Amendments to the Drawings** begin on page _____ of this paper and include an attached replacement sheet.
- Remarks** begin on page 8 of this paper.
- Request For Refund Form** is attached.

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This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

1. (Currently Amended) A computer implemented method[[,]] carried out by a computing device comprising at least one processor and at least one memory communicatively coupled to said processor, the method comprising:

polling, by the computing device, a server for a task request, the task request generated in response to a request by a remote client computer and associated with the remote client computer, the task request requesting identifying a file residing on a local computer the computing device;

receiving, at the computing device, the task request from the server, the task request identifying the file from the local computer associated with a local agent;

responsive to the task request, causing the file to be uploaded to the server from the local computer computing device;

waiting, at the computing device, for a schedule timer to expire; and
repeating at least the above act of polling a server for a task request.

15. (Currently Amended) A local agent system comprising at least one processor and at least one memory communicatively coupled to said processor, the at least one memory having stored therein computer-executable instructions capable of implementing:

a task processor for polling a server for a task request, the task request identifying a file in a local computer residing in said system associated with the local agent, the task request generated in response to a request by a remote client computer and associated with the remote client computer, the task request requesting a file from the local computer;

a subsystem for causing, in response to the task request, the file to be uploaded to the server from the system;

a schedule timer communicatively coupled to the task processor for controlling a task processor polling interval; and

one or more protocol stacks for communicating over a network with the server.

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REMARKS

Claims 1-16, 19-20, and 25-35 are pending in the Application. Claims 1-16, 19-20, and 25-35 stand rejected. Claims 25-30 remain withdrawn via restriction. Examiner Tang is respectfully urged to reconsider the application and to withdraw the rejections.

Claim Rejections - 35 USC § 101

Claims 1-16, 19-20, 25-35 stand rejected under 35 U.S.C. § 101. Applicants respectfully traverse the rejection.

Claim 1 stands rejected because the Examiner contends that paragraphs 0013 and 0014 of the instant application state that the method is embodied in computer software and is neither tied to another statutory class nor does it transform underlying subject matter to a different state or thing. Applicants have amended claim 1 to recite that the method is carried out by a computing device comprising a processor and memory. For support, Applicants direct the Examiner to paragraph 0029 of the specification which states, “Such a system will include one or more microprocessors, a volatile memory area, a persistent memory area, and one or more mass storage devices. One or more sections of computer program code, or software, either in a compiled or an interpreted form, will run, for instance, in one of the memory areas, to cause the microprocessor(s) to perform the sequences of operations and techniques described below.” Accordingly, Applicant respectfully submits that claims 1-7 and 31 recite statutory subject matter.

Claim 8 stands rejected because the Examiner contends that paragraph 0102 of the instant application states that the method is to be carried out on a medium including the Internet and is not tangible. Applicants point out that the claim recites “storage medium.” While paragraph 0102 states that the contents of a computer readable medium can be downloaded from the Internet, this only states one possible method of downloading content. The claim recites “storage medium” and thus is not directed to transitory signals. As indicated in paragraph 0102, the computer implemented methods of the present disclosure may be carried out on computer readable medium, such as a medium stored persistently in a computer or stored and installed from a CD-

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ROM. Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), persistently stores tangible media. Applicants respectfully submit that claim 8 recites statutory subject matter, and request that the 35 USC § 101 rejection be withdrawn as to claims 8-14 and 32.

Claim 15 stands rejected because the Examiner contends that paragraph 0039 of the instant application states that a local agent is a software module and is considered to be a program *per se*. Applicant has amended claim 15 to recite a processor and memory. Applicants respectfully direct the Examiner to *WMS Gaming Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999). The *WMS Gaming* Court reasoned that “[a] general purpose computer, or microprocessor, programmed to carry out an algorithm creates ‘a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.’” *Id.* (quoting *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994)). Applicants respectfully submit that claims 15-16, 19-20, and 33-35 recite statutory subject matter.

Claim Rejections - 35 USC § 112

Claim 8-14 stand rejected because there is insufficient antecedent basis for the limitation “computer readable storage medium.” Applicants direct the Examiner to paragraph 0029 of the specification which states “Such a system will include one or more microprocessors, a volatile memory area, a persistent memory area, and one or more mass storage devices. One or more sections of computer program code, or software, either in a compiled or an interpreted form, will run, for instance, in one of the memory areas, to cause the microprocessor(s) to perform the sequences of operations and techniques described below.” Furthermore, the specification paragraph 102 indicates that an embodiment of a computer readable medium, such as a tangible CD-ROM or persistent computer storage, includes software code (instructions). Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), is tangible and an article of manufacture. As stated in the MPEP 1302.01 para. 13.08, “exact terms need not be used in *haec verba* to

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satisfy the written description requirement of the first paragraph of 35 U.S.C. 112. *Eiselstein v. Frank*, 52 F.3d 1035, 1038, 34 USPQ2d 1467, 1470 (Fed. Cir. 1995); *In re Wertheim*, 541 F.2d 257, 265, 191 USPQ 90, 98 (CCPA 1976). See also 37 CFR 1.121(e) which merely requires substantial correspondence between the language of the claims and the language of the specification.” (emphasis added). Applicants respectfully submit that sufficient basis exists for the recitation of “storage” in the claims and request withdrawal of the 35 USC § 101 rejection of claims 8-14.

Claim Rejections - 35 USC § 102

Claims 15-16, 19-20, and 33 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 20020023140 (Hile). Applicants respectfully traverse the rejection.

The standard under Section 102 is one of strict identity. “Under 35 U.S.C. § 102, every limitation of a claim must identically appear in a single prior art reference for it to anticipate the claim” (*Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997)). In addition, “[e]very element of the claimed invention must be literally present, arranged as in the claim” (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)). Further, implicit in a review of an examiner’s anticipation analysis is that the claim must first have been correctly construed to define the scope and meaning of each contested limitation (*Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997); *In re Paulsen*, 30 F.3d 1475, (Fed. Cir. 1994), stating for example, “to properly compare [an allegedly anticipatory prior art reference] with the claims at issue, we must construe the term ‘computer’ to ascertain its scope and meaning.”).

According to the Abstract, Hile is generally directed to the transfer of files between two computers. A sender uses a web browser to send a request to a server over a first connection that a file is to be sent to the second computer. A transfer agent on the first computer opens a second connection to the server and transfers the file to the server. A notification is sent to the second computer that a file is to be transferred to the second computer. Thus, Hile is directed to the push transfer of a file from a first computer to a second computer.

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Referring to Claim 15, the Examiner contends that Hile paragraphs 0021 and 0027 and Fig. 4 disclose a local agent comprising a task processor polling a server for a task request, the task request identifying a file in a local computer associated with the local agent, the task request generated by a remote client computer, the task request requesting a file residing on a local computer. Applicant respectfully disagrees. While the passages from Hile disclose that a transfer agent asks the application server for file transfer instructions, the citations do not disclose “the task request generated by a *remote client computer*, the task request *requesting a file residing on a local computer*” (emphasis added) as previously recited in claim 15. According to the claim, the remote client computer generates the task request which requests a file on the local computer. The transfer agent of Hile receives file transfer instructions for files to be uploaded from *the same computer* to the server. See, for example, Hile paragraph 0019 which states “the selected file must be transferred from the sender's computing device to the server.” The computer receiving the file does not generate a request for a file.

For at least the above reason, the citations from Hile do not disclose claim 15. Applicants have further amended claim 15 to more clearly recite the claimed subject matter.

Claim Rejections - 35 USC § 103

Claims 1-14, 31-32, 34, and 35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hile in view of U.S. Pat. No. 6,675,205 in further view of U.S. Pat. No. 7,305,381 (Poppink). Applicants respectfully traverse the rejection.

Referring to Claim 1, the Examiner contends that Hile paragraph 0014 and 82 of Fig. 4 disclose polling a server for a task request, the task request generated by a remote client computer, the task request requesting a file residing on a local computer. Applicant respectfully disagrees. While the passages from Hile disclose that a transfer agent asks the application server for file transfer instructions, the citations do not disclose “the task request generated by a *remote client computer*, the task request *requesting a file residing on a local computer*” (emphasis added) as previously recited in claim 1. According to the claim, the remote client computer generates the task request which requests a file on the local computer. The transfer agent of Hile

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receives file transfer instructions for files to be uploaded from *the same computer* to the server. See, for example, Hile paragraph 0019 which states “the selected file must be transferred from the sender's computing device to the server.” The computer receiving the file does not generate a request for a file.

Meadway does not cure the deficiencies of Hile. According to the Abstract, Meadway is directed to a peer-to-peer asynchronous file sharing service. The service performs centralized searches based on index information transmitted by peer systems to a central site using an agent program running on each peer and then directs the peer systems to each other for the purpose of retrieving files. When a system containing the requested file connects to the service, the requested file is retrieved from that system and then distributed to the other systems which had requested the file.

In contrast, claim 1 recites a method for use by a local agent module associated with a local computer. As previously recited in the claim, the local agent polls “a server for a task request, the task request generated by a remote client computer, the task request requesting a file from the local computer.” The server thus facilitates a remote user's access to local files on a local computer, without the need to directly access the local files or the local file structure. Meadway, on the other hand, teaches away from claim 1 by disclosing a centralized service that requires a comprehensive searchable index of files reported by each device. The agent disclosed in Meadway is associated with a server, retrieves file structure information, and maintains a searchable index of files (see, e.g., Meadway Col 5, Lines 10-25). In further contrast to Meadway, claim 1 recites at least three different computing devices, i.e., (1) a local computer on which a requested file resides, (2) a server, and (3) a remote client computer that requests the file on the local computer.

Applicants further submit that one of skill in the art would not be motivated to combine these two references because, considering all of the teachings of the two references, the addition of Meadway to Hile changes the principle of operation of Hile and renders Hile inoperable as modified by Meadway. As discussed above, Hile teaches a file transfer initiated by a user that wishes to send a file to another computer. In Hile, this is accomplished by having a user fill out a

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file “Send Form” to an application server, over a first communication link, for the files that the user wants to send or push out to a recipient (see, e.g., Fig. 3 and para 0018). Then, the selected file must be transferred, over a second communication link, from the sender's computing device to the server (see, e.g., Fig. 1 and para 0019). Thus, Hile teaches explicitly pushing a file to a known second computer. Meadway, on the other hand, requires a centralized store of source file information that maintains anonymity between sender and recipient (see, e.g., column 2 lines 25-29 “Only the central server knows the internet address and other identifying information about each contributor, and this information is stripped from each file before the file is forwarded.”) This explicit teaching is in direct conflict with the teaching of Hile that requires explicit identification of a file to be transferred to a known user.

The citation from Poppink merely discloses that information may be retrieved asynchronously and does not address the deficiencies of Hile and Meadway as discussed above.

Applicants have amended claims 1 and 8 to more clearly recite the claimed subject matter.

For at least the above reasons, Applicant respectfully submits that the combination of Hile, Meadway and Poppink fails to disclose or suggest claim 1. Independent claim 8 recites similar elements as claim 1 and thus Hile, Meadway and Poppink fail to disclose or suggest claim 8. Since the combination of Hile, Meadway and Poppink fails to disclose all of the elements of the independent claims, dependent Claims 2-6, 9-14, 31-21, 34 and 35 cannot be rendered obvious by the cited combination per MPEP §2143.03. Applicants respectfully request reconsideration and withdrawal of the 35 USC §103 rejection.

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Application No.: 11/506,383
Office Action Dated: April 24, 2009

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jeffrey G. Anderson, et al.

Confirmation No.: 7745

Application No.: **11/506,383**

Group Art Unit: **2451**

Filing Date: **August 18, 2006**

Examiner: **Karen C. Tang**

For: **LOCAL AGENT FOR REMOTE FILE ACCESS SYSTEM**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY PURSUANT TO 37 CFR § 1.111

In response to the Official Action dated **April 24, 2009**, reconsideration is respectfully requested in view of the amendments and/or remarks as indicated below:

- Amendments to the Specification** begin on page _____ of this paper.
- Amendments to the Claims** are reflected in the listing of the claims which begins on page 2 of this paper.
- Amendments to the Drawings** begin on page _____ of this paper and include an attached replacement sheet.
- Remarks** begin on page 4 of this paper.
- Request For Refund Form** is attached.

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This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

21. (Previously Presented) A system comprising a processor and a computer-readable storage device storing a computer program that, when executed, implements functions comprising:

a transmission control protocol/internet protocol stack for network communication with a server over a network;

an extensible markup language input/output parser, communicatively coupled to the transmission control/internet protocol stack, for breaking down data and commands;

a simple object access protocol interpreter, communicatively coupled to the extensible markup language input/output parser, for creating file system instructions to poll the server for a task request requesting a file residing on the system and retrieve the file specified in the task request, wherein said task request is generated by a remote client computer; and

a task processor, communicatively coupled to the simple object access protocol interpreter, for executing subsystem instructions and initiating poll commands, based on a schedule timer, wherein the subsystem instructions comprise instructions for waiting for said schedule timer to expire and for repeating at least the act of initiating poll commands.

30. (Currently Amended) A computer-readable storage medium comprising:

instructions to poll a task queue in a server for a file request received by the server from a remote client device, the requested file residing on a local computer and the remote client device separate from the local computer;

instructions to retrieve the requested file from the local computer if when the task queue indicates that the remote client device requested the file;

instructions to forward the requested file from the local computer to the server; and

instructions to provide an instruction to the server to notify the remote client device that the requested file is available from the server; and

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wherein the instructions for a local agent includes comprising a transmission control protocol/internet protocol stack for network communication with a server over a network, an input/output parser for breaking down data and commands, a simple object access protocol interpreter for creating file system instructions to poll the server for a task the file request and retrieve the file specified in the task file request, and a task processor for executing subsystem instructions and initiating poll commands based on a schedule timer.

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REMARKS

Claims 21-25 and 27-33 are pending in the Application. Claims 21-25 and 27-33 stand rejected. Examiner Tang is respectfully urged to reconsider the application and to withdraw the rejections.

Claim Rejections - 35 USC § 101

Claims 21-33 stand rejected under 35 U.S.C. 101. Applicants respectfully traverse the rejection.

Claim 21 stands rejected because the Examiner contends that paragraphs 0013 and 0014 of the instant application state that the system is composed of a software framework and therefore does not comprise any hardware structure and is considered as a software *per se*. Claim 21 recites a processor and computer-readable storage device. Applicants respectfully direct the Examiner to *WMS Gaming Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999). The *WMS Gaming* Court reasoned that “[a] general purpose computer, or microprocessor, programmed to carry out an algorithm creates ‘a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.’” *Id.* (quoting *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994)). Applicants respectfully submit that claims 21-29 recite statutory subject matter.

Claim 30 stands rejected because the Examiner contends that paragraph 0102 of the instant application states that a computer-readable storage medium is intended to be a signal storage medium (e.g., downloaded from the Internet) and is not tangible and non-statutory subject matter. Applicants point out that the claim recites “storage medium.” While paragraph 0102 states that the contents of a computer readable medium can be downloaded from the Internet, this only states one possible method of downloading content. The claim recites “storage medium” and thus is not directed to transitory signals. As indicated in paragraph 0102, the computer implemented methods of the present disclosure may be carried out on computer readable medium, such as a medium stored persistently in a computer or stored and installed

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from a CD-ROM. Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), persistently stores tangible media. Applicants respectfully submit that claim 30 recites statutory subject matter, and respectfully request that the 35 USC § 101 rejection be withdrawn as to claims 30-33.

Claim Rejections - 35 USC § 112

The Examiner contends that there is insufficient antecedent basis for the limitation "the transmission control/internet protocol stack" in lines 6-7 of claim 21. The antecedent basis for this limitation can be found in line 4 of the claim.

The Examiner contends that there is insufficient antecedent basis for the limitation "computer readable storage medium" in Claims 30-33. Applicants direct the Examiner to paragraph 0029 of the specification which states that "Such a system will include one or more microprocessors, a volatile memory area, a persistent memory area, and one or more mass storage devices. One or more sections of computer program code, or software, either in a compiled or an interpreted form, will run, for instance, in one of the memory areas, to cause the microprocessor(s) to perform the sequences of operations and techniques described below." Furthermore, the specification paragraph 102 indicates that an embodiment of a computer readable medium, such as a tangible CD-ROM or persistent computer storage, includes software code (instructions). Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), is tangible and an article of manufacture. As stated in the MPEP 1302.01 para. 13.08, "exact terms need not be used in *haec verba* to satisfy the written description requirement of the first paragraph of 35 U.S.C. 112. *Eiselstein v. Frank*, 52 F.3d 1035, 1038, 34 USPQ2d 1467, 1470 (Fed. Cir. 1995); *In re Wertheim*, 541 F.2d 257, 265, 191 USPQ 90, 98 (CCPA 1976). See also 37 CFR 1.121(e) which merely requires substantial correspondence between the language of the claims and the language of the specification." (emphasis added). Applicants respectfully submit that sufficient

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basis exists for the recitation of “storage” in the claims and request withdrawal of the 35 USC § 112 rejection of claims 30-33.

Applicants have amended claim 30 to address the 35 U.S.C. 112, second paragraph issues identified by the Examiner and request withdrawal of the rejection.

Claim Rejections - 35 USC § 103

Claims 21-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 20020023140 (Hile) in view of U.S. Pub. No. 20020184373 (Maes) in further view of U.S. Pat. No. 7,305381 (Poppink). Applicants respectfully traverse the rejection.

Referring to Claim 21, the Examiner contends that Hile paragraph 0027 discloses a simple object access protocol interpreter for creating file system instructions to poll the server for a task request requesting a file residing on the system and retrieve the file specified in the task request, wherein said task request is generated by a remote client computer. Applicants respectfully disagree. While the passages from Hile disclose that a transfer agent asks the application server for file transfer instructions, the citations do not disclose “a task request requesting a file residing on the system and retrieve the file specified in the task request, wherein said task request is generated by a remote client computer” (emphasis added) as recited in claim 21. Thus, the remote client computer generates the task request, which requests a file on the local computer. The transfer agent of Hile receives file transfer instructions for files to be uploaded from the same computer to the server. See, for example, Hile paragraph 0019 which states “the selected file must be transferred from the sender's computing device to the server.” The computer receiving the file does not generate a request for a file.

For at least the above reason, the citations from Hile do not disclose claim 21. Applicants have further amended claim 21 to more clearly recite the claimed subject matter.

Maes and Poppink do not cure the deficiencies of Hile. According to the Abstract, Maes is directed to a system and method for implementing conversational protocols for distributed conversational networking architectures and/or distributed conversational applications. Maes does not disclose “creating file system instructions to poll the server for a task request requesting

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a file residing on the system and retrieve the file specified in the task request, wherein said task request is generated by a remote client computer" as recited in claim 21. Poppink discloses that information may be retrieved asynchronously and does not address the deficiencies of Hile and Maes.

For at least the above reasons, Applicant respectfully submits that the combination of Hile, Maes and Poppink fails to disclose or suggest claim 21. Since the combination of Hile, Maes and Poppink fails to disclose all of the elements of the independent claim, dependent Claims 22-29 cannot be rendered obvious by the cited combination per MPEP §2143.03. Applicants respectfully request reconsideration and withdrawal of the 35 USC §103 rejection.

Referring to Claim 30, the Examiner contends that Hile paragraphs 0026 and 0027 disclose "poll a task queue in a server for a file request received by the server from a remote client device, the remote client device separate from the local computer" and "retrieve the requested file from the local computer if the task queue indicates that the client device requested the file." Applicants respectfully disagree. While the passages from Hile disclose that a transfer agent asks the application server for file transfer instructions, the citations do not disclose "for a file request received by the server from a remote client device" and "retrieve the requested file from the local computer" (emphasis added) as previously recited in claim 30. Thus, the remote client computer generates the task request, which requests a file on the local computer. The transfer agent of Hile receives file transfer instructions for files to be uploaded from the same computer to the server. See, for example, Hile paragraph 0019 which states "the selected file must be transferred from the sender's computing device to the server." The computer receiving the file does not generate a request for a file.

For at least the above reason, the citations from Hile do not disclose claim 30. Applicants have further amended claim 30 to more clearly recite the claimed subject matter.

Poppink does not cure the deficiencies of Hile. Poppink discloses that information may be retrieved asynchronously and does not address the deficiencies of Hile.